

REMARKS/ARGUMENTS

Claims 1-20 are pending in the current application, and the Examiner has rejected Claims 1-20 in a first Office Action having a mailing date of April 1, 2004. The Applicant would like to express appreciation to the Examiner for the Examiner's recognition of the allowable subject matter in Claim 18. It is noted to the Examiner's attention that new independent Claim 21 is a combination of the limitations of previously presented independent Claim 17 and dependent Claim 18.

In Paragraphs 3 and 4 of the Office Action, the Examiner rejected Claims 7-11, 17 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,543,980 to Van der Sanden. In Paragraph 4, the Examiner has stated that Van der Sanden fails to disclose the transverse opening intersecting the protrusion, but then the Examiner states that it would have been obvious as a matter of design choice to have the protrusion at or below the transverse opening.

To establish a prima facie case of obviousness under 35 U.S.C. § 103(a), the Examiner must show that 1) the references teach all of the elements of the claimed invention, 2) the references contain some teaching, suggestion or motivation to combine the references, and 3) the references suggest a reasonable expectation of success. See MPEP § 2142; see also In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); In re Kotzab, 217 F.3d 1365, 55 USPQ2d 1313 (Fed. Cir. 2000).

The Applicant respectfully traverses this rejection. First, Van der Sanden does not provide the teaching, suggestion or motivation to position the protrusion as claimed in the subject claims. The Examiner's suggestion that the location is a matter of design choice does not properly consider that the location of the protrusion intersecting the transverse opening mitigates the pressure put on the valve core during initial filling of the tank. The motivation of every inventor is, in part, to improve upon the state of the art; to make something more effective and successful than what is disclosed in the prior art. By placing the protrusion at the intersection of the transverse opening, an improvement is made over the structure presented in Van der Sanden because during filling, "a larger diameter portion of the valve core flange resides in the chamber above the inner concentric rim." Present Application Specification, pg. 3, Ins. 12 and 13. The Examiner has not provided any evidence that a protrusion intersecting the transverse opening is obvious to one of ordinary skill in the art. The Examiner has only indicated that using an intersecting location is a matter of design

choice. However, Applicants traverse this conclusory finding by the Examiner, and request that the Examiner provide a reference proving that use of a protrusion intersecting a transverse opening as presented in the Applicants' claims is known. In the event that the Examiner persists in such § 103 rejections based on a "design choice" rationale, the Applicant respectfully requests that the Examiner provide documentary evidence in accordance with 37 CFR § 1.104(c)(2). See also MPEP § 2144.03(c). Since none of the cited references disclose or suggest the protrusion location intersecting the transverse opening, and since the Examiner has not provided a reference disclosing this limitation, the Examiner is requested to withdraw the 35 U.S.C. § 103(a) rejection of Claims 7-11, 17 and 20, and the remaining dependent claims under Claim 17, namely claims 18 and 19.

The Examiner rejected Claims 1-6, and 12-16 as being anticipated by Van der Sanden. For the same reasons given above, the Examiner is requested to withdraw the rejection of Claims 1-6 and 12-16 because the Applicant has amended independent Claims 1 and 12 to now include the limitation that the protrusion intersects the transverse passageway.

In Paragraph 5 of the Office Action, the Examiner rejected Claim 19 as being unpatentable over Van der Sanden in view of U.S. Patent No. 4,813,575 to O'Connor. Here, the Examiner has stated that it would have been obvious to one of ordinary skill in the art to make the distal end of the valve core intersecting or positioned above the transverse passage as disclosed in O'Connor. Arguments directed to advantages not disclosed in the specification cannot be disregarded. In re Chu, 66 F.3d 292, 298-99, 36 USPQ2d 1089, 1094-95 (Fed. Cir. 1995). See also MPEP § 716.02(f). The problem here is that O'Connor does not address the failure of the valve if the valve core becomes dislodged during transport and prior to filling, wherein the filling fluid could thereafter pin the valve core against the seat preventing the tank from being filled. More specifically, the sealing member (valve core) of O'Connor is in compression in the upper chamber of the O'Connor valve. See O'Connor col. 6, lns. 20-29. The O'Connor valve core it is not held up in an uncompressed state by a protrusion, as is the valve core of the present invention. Thus, without the protrusion, the O'Connor valve core could become dislodged and then seat below the transverse opening during attempted filling of the tank. It is noted to the Examiner's attention that if the valve core of O'Connor is in an uncompressed state before filling of the valve, then the O'Connor valve core will

Application No. 10/622,043

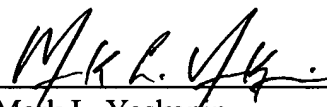
not work (or not work properly) because it would not be situated in the upper portion of the chamber and would thus contact the seat during attempted filling of the tank. The structure of the present invention addresses this potential problem. Furthermore, the majority of the flange is above the protrusion, as opposed to Van der Sanden, which can be forced downward during filling if too much pressure is applied. The Applicant believes that the claims presented distinguish the present invention over that of Van der Sanden and/or O'Connor. Accordingly, the Applicant requests that the rejection of Claim 17 and its dependent Claim 19 be withdrawn. Furthermore, the above noted arguments are referenced for consideration in the other claims as well.

Finally, it is noted to the Examiner's attention that, in addition to previously mentioned Claim 21, Claims 22 and 23 have also been added. Claims 22 and 23 further claim the invention.

Based upon the foregoing, the Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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